

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STEVEN E. FORTNEY,

Plaintiff,

v.

WILLIAM POLLARD, MICHAEL BAENEN
and CAPT. SCHULTZ,

Defendants.

ORDER

09-cv-527-slc

This a proposed civil action for monetary relief brought under 42 U.S.C. § 1983. Pro se plaintiff Steven Fortney is suing defendants for violations of his due process rights under the Fourteenth Amendment. Before the court is plaintiff's motion for summary judgment. Dkt. 19. The motion will be denied without prejudice to him bringing a proper summary judgment motion later in this case. Initially, I note that it is premature to be filing a summary judgment motion on the merits of this case. There has been no discovery conducted to obtain relevant facts. In fact, as of the issuance of this order, defendants have not even filed their answer and there has not been a pretrial conference.

Furthermore, plaintiff's motion fails to comply with this court's summary judgment procedures. For example, instead of filing proposed findings of fact, plaintiff attached documents as exhibits to his motion. Besides the attachments being inadmissible because there is no affidavit regarding the authenticity of the documents, the failure to file proposed findings of fact violates this court's procedures. Plaintiff's failure comes as no surprise because he has not yet received those procedures, which also include information about how to authenticate documents for admission on summary judgment. He will receive that information at the pretrial conference, which will be scheduled after defendants file their answer to the complaint. Accordingly, plaintiff's motion will be denied for failure to comply with this court's summary

judgment procedures. *Bordelon v. Chicago School Reform Board of Trustees*, 233 F.3d 524, 527 (7th Cir. 2000) (district court can require “strict compliance” with local rules governing summary judgment). Nonetheless, the denial will be without prejudice to plaintiff filing a future summary judgment motion that complies with this court’s procedures so that plaintiff, who is proceeding pro se, receives a “fair shake.” *Dale v. Poston*, 548 F.3d 563, 568 (7th Cir. 2008).

ORDER

IT IS ORDERED that Plaintiff Steven Fortney’s motion for summary judgment, dkt. 19, is DENIED without prejudice.

Entered this 10th day of November, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge